

HOUSE BILL 392
EMERGENCY BILL

Unofficial Copy
E4
HB 81/00 - JUD

2001 Regular Session
11r0409

By: **Delegates Dembrow, Cadden, Giannetti, Gordon, Redmer, and
O'Donnell**

Introduced and read first time: February 1, 2001

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Sentencing - Custodial Confinement as a Condition of**
3 **Probation**

4 FOR the purpose of allowing a court as a condition of a suspended sentence or
5 probation to order a person to a term of custodial confinement for a certain term
6 under certain circumstances; clarifying that a term of imprisonment or custodial
7 confinement does not limit the court's authority to order other terms of a
8 suspended sentence or probation under certain circumstances; providing that
9 any time served in imprisonment or custodial confinement shall be credited
10 against certain sentences under certain circumstances; clarifying and limiting
11 the authority of certain courts in certain counties to order a term of
12 imprisonment as a condition of a suspended sentence or probation under certain
13 circumstances; defining a certain term; making a portion of this Act an
14 emergency measure; and generally relating to custodial confinement as a
15 condition of a suspended sentence or probation.

16 BY repealing and reenacting, with amendments,
17 Article 27 - Crimes and Punishments
18 Section 639, 641, and 641A
19 Annotated Code of Maryland
20 (1996 Replacement Volume and 2000 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article - Criminal Procedure
23 Section 6-219, 6-220, and 6-225
24 Annotated Code of Maryland
25 (As enacted by Chapter _____ (S.B. 1) of the Acts of the General Assembly of
26 2001)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That the Laws of Maryland read as follows:

Article 27 - Crimes and Punishments

2 639.

3 (A) (1) IN THIS SECTION, "CUSTODIAL CONFINEMENT" MEANS:

4 (I) HOME DETENTION;

5 (II) A CORRECTIONS OPTIONS PROGRAM ESTABLISHED UNDER LAW
6 WHICH REQUIRES THE INDIVIDUAL TO PARTICIPATE IN HOME DETENTION,
7 INPATIENT TREATMENT, OR OTHER SIMILAR PROGRAM INVOLVING TERMS AND
8 CONDITIONS THAT CONSTITUTE THE EQUIVALENT OF CONFINEMENT; OR

9 (III) INPATIENT DRUG OR ALCOHOL TREATMENT.

10 (2) "CUSTODIAL CONFINEMENT" DOES NOT INCLUDE IMPRISONMENT.

11 [(a)] (B) (1) The courts may suspend sentence generally or for a definite
12 time, and may make such orders and impose such terms as to costs, recognizance for
13 appearance, or matters relating to the residence or conduct of the convicts as may be
14 deemed proper; and if the convict is a person under 18 years of age, the courts may
15 also make such orders as to his detention in any care or custody as may be deemed
16 proper.

17 (2) In Charles County, St. Mary's County, and Calvert County, the court
18 may impose a sentence of [confinement] IMPRISONMENT as a condition of probation.

19 (3) AS A CONDITION OF A SUSPENDED SENTENCE THE COURT MAY
20 ORDER A PERSON TO A TERM OF CUSTODIAL CONFINEMENT.

21 (4) (I) THE LENGTH OF THE TERM OF IMPRISONMENT OR CUSTODIAL
22 CONFINEMENT IMPOSED UNDER THIS SUBSECTION MAY NOT EXCEED THE
23 MAXIMUM LENGTH OF IMPRISONMENT FOR THE CRIME FOR WHICH THE PERSON
24 WAS CONVICTED.

25 (II) THIS PARAGRAPH MAY NOT BE CONSTRUED TO LIMIT A
26 COURT'S AUTHORITY TO ORDER IN THE MANNER PROVIDED BY LAW CONDITIONS OF
27 PROBATION OTHER THAN IMPRISONMENT OR CUSTODIAL CONFINEMENT THAT
28 EXCEED THE MAXIMUM LENGTH OF IMPRISONMENT FOR THE CRIME FOR WHICH
29 THE PERSON WAS CONVICTED.

30 [(b)] (C) However, when the conviction is for violation of § 21-902(a) or (b) of
31 the Transportation Article, if the court places the person on probation, it shall require,
32 as a condition of the suspension of sentence, that the person participate in an alcohol
33 treatment or education program approved by the Department of Health and Mental
34 Hygiene, unless the court finds and affirmatively states on the record that the
35 interests of the person and the people of the State do not require the imposition of this
36 condition.

1 [(c)] (D) In Prince George's County, the courts may also impose such sentences
2 as may be provided by law with respect to the offense upon which an accused has been
3 convicted and cause the convict to serve the sentence by attendance at the county
4 detention center or place of confinement under the jurisdiction of the sheriff, where
5 the sentence is to be performed during any 48-hour period, in any 7-day period, with
6 each period of confinement to constitute not less than 2 days of the sentence imposed;
7 provided, however, that the offense leading to such conviction shall permit
8 confinement in the county detention center and the total sentence imposed by the
9 judge may not exceed 30 2-day periods of confinement.

10 [(d)] (E) When the conviction is for violation of any provision of §§ 276 through
11 303 of this article, if the court places the person on probation, it shall require, as a
12 condition of the suspension of sentence, that the person participate in a drug
13 treatment or education program approved by the Department of Health and Mental
14 Hygiene, unless the court finds and affirmatively states on the record that the
15 interests of the person and the people of the State do not require the imposition of this
16 condition.

17 (F) IF AN INDIVIDUAL VIOLATES THE TERMS OF PROBATION, ANY TIME
18 SERVED BY THE INDIVIDUAL IN IMPRISONMENT OR CUSTODIAL CONFINEMENT
19 SHALL BE CREDITED AGAINST ANY SENTENCE OF INCARCERATION IMPOSED BY THE
20 COURT.

21 641.

22 (A) (1) IN THIS SECTION, "CUSTODIAL CONFINEMENT" MEANS:

23 (I) HOME DETENTION;

24 (II) A CORRECTIONS OPTIONS PROGRAM ESTABLISHED UNDER LAW
25 WHICH REQUIRES THE INDIVIDUAL TO PARTICIPATE IN HOME DETENTION,
26 INPATIENT TREATMENT, OR OTHER SIMILAR PROGRAM INVOLVING TERMS AND
27 CONDITIONS THAT CONSTITUTE THE EQUIVALENT OF CONFINEMENT; OR

28 (III) INPATIENT DRUG OR ALCOHOL TREATMENT.

29 (2) "CUSTODIAL CONFINEMENT" DOES NOT INCLUDE IMPRISONMENT.

30 [(a)] (B) (1) (i) 1. Whenever a person accused of a crime pleads guilty or
31 nolo contendere or is found guilty of an offense, a court exercising criminal
32 jurisdiction, if satisfied that the best interests of the person and the welfare of the
33 people of the State would be served thereby, and with the written consent of the
34 person after determination of guilt or acceptance of a nolo contendere plea, may stay
35 the entering of judgment, defer further proceedings, and place the person on
36 probation subject to reasonable terms and conditions as appropriate. The terms and
37 conditions may include ordering the person to pay a fine or pecuniary penalty to the
38 State, or to make restitution, but before the court orders a fine, pecuniary penalty, or
39 restitution the person is entitled to notice and a hearing to determine the amount of
40 the fine, pecuniary penalty, or restitution, what payment will be required, and how
41 payment will be made. The terms and conditions also may include any type of

1 under, or has been placed on probation under this section after being charged with a
2 violation of, § 21-902 of the Transportation Article within the preceding 5 years.

3 (3) Notwithstanding paragraph (1) of this subsection, a court may not
4 stay the entering of judgment and place a person on probation for a second or
5 subsequent controlled dangerous substance offense under §§ 276 through 303 of this
6 article.

7 (4) Notwithstanding paragraph (1) of this subsection, a court may not
8 stay the entering of judgment and place a person on probation for a violation of any of
9 the provisions of §§ 462 through 464B of this article for an offense involving a person
10 under the age of 16 years.

11 (5) By consenting to and receiving a stay of entering of the judgment as
12 provided by this subsection, the person waives the right to appeal from the judgment
13 of guilt by the court at any time. Prior to the person consenting to the stay of entering
14 of the judgment, the court shall notify the person that by consenting to and receiving
15 a stay of entry of judgment, the person waives the right to appeal from the judgment
16 of guilt by the court at any time.

17 [(b)] (C) (1) Upon violation of a term or condition of probation, the court
18 may enter judgment and proceed with disposition of the person as if the person had
19 not been placed on probation.

20 (2) IF AN INDIVIDUAL VIOLATES A TERM OR CONDITION OF PROBATION,
21 ANY TIME SERVED BY THE INDIVIDUAL IN IMPRISONMENT OR CUSTODIAL
22 CONFINEMENT SHALL BE CREDITED AGAINST ANY SENTENCE OF INCARCERATION
23 IMPOSED BY THE COURT.

24 [(c)] (D) Upon fulfillment of the terms and conditions of probation, the court
25 shall discharge the person from probation. The discharge is final disposition of the
26 matter. Discharge of a person under this section shall be without judgment of
27 conviction and is not a conviction for purposes of any disqualification or disability
28 imposed by law because of conviction of crime.

29 641A.

30 (A) (1) IN THIS SECTION, "CUSTODIAL CONFINEMENT" MEANS:

31 (I) HOME DETENTION;

32 (II) A CORRECTIONS OPTIONS PROGRAM ESTABLISHED UNDER LAW
33 WHICH REQUIRES THE INDIVIDUAL TO PARTICIPATE IN HOME DETENTION,
34 INPATIENT TREATMENT, OR OTHER SIMILAR PROGRAM INVOLVING TERMS AND
35 CONDITIONS THAT CONSTITUTE THE EQUIVALENT OF CONFINEMENT; OR

36 (III) INPATIENT DRUG OR ALCOHOL TREATMENT.

37 (2) "CUSTODIAL CONFINEMENT" DOES NOT INCLUDE IMPRISONMENT.

1 [(a)] (B) (1) Upon entering a judgment of conviction, the court having
2 jurisdiction may suspend the imposition or execution of sentence and place the
3 defendant on probation upon such terms and conditions as the court deems proper.

4 (2) In Charles County, St. Mary's County, Cecil County, Harford County,
5 and Calvert County, the court may impose as a condition of probation a sentence of
6 [confinement] IMPRISONMENT.

7 (3) [The] EXCEPT AS PROVIDED IN PARAGRAPHS (4), (5), AND (6) OF THIS
8 SUBSECTION, THE court may impose a sentence for a specified period and provide
9 that a lesser period be served in confinement, suspend the remainder of the sentence
10 and grant probation for a period longer than the sentence but not in excess of 5 years.

11 (4) AS A CONDITION OF PROBATION THE COURT MAY ORDER A
12 DEFENDANT TO A TERM OF CUSTODIAL CONFINEMENT.

13 (5) (I) THE LENGTH OF THE TERM OF IMPRISONMENT OR CUSTODIAL
14 CONFINEMENT IMPOSED UNDER THIS SUBSECTION MAY NOT EXCEED THE
15 MAXIMUM LENGTH OF IMPRISONMENT FOR THE CRIME FOR WHICH THE PERSON
16 WAS CONVICTED.

17 (II) THIS PARAGRAPH MAY NOT BE CONSTRUED TO LIMIT A
18 COURT'S AUTHORITY TO ORDER IN THE MANNER PROVIDED BY LAW CONDITIONS OF
19 PROBATION OTHER THAN IMPRISONMENT OR CUSTODIAL CONFINEMENT THAT
20 EXCEED THE MAXIMUM LENGTH OF IMPRISONMENT FOR THE CRIME FOR WHICH
21 THE PERSON WAS CONVICTED.

22 [(4)] (6) However, if the defendant consents in writing, the court may
23 grant probation in excess of 5 years, but only for purposes of making restitution.

24 [(b)] (C) Probation may be granted whether the offense is punishable by fine
25 or imprisonment or both. If the offense is punishable by both fine and imprisonment,
26 the court may impose a fine and place the defendant on probation as to the
27 imprisonment. Probation may be limited to one or more counts or indictments, but, in
28 the absence of express limitation, shall extend to the entire sentence and judgment.
29 The court may revoke or modify any condition of probation or may reduce the period
30 of probation.

31 [(c)] (D) If a sentence of imprisonment is imposed, a portion of it is suspended,
32 and the defendant is placed on probation, the court may impose as a condition of
33 probation that the probation commence on the date the defendant is actually released
34 from imprisonment.

35 [(d)] (E) When the probation granted is for violation of any provision of §§ 276
36 through 303 of this article, if the court places the person on probation, it shall require,
37 as a condition of the suspension of sentence, that the person participate in a drug
38 treatment or education program approved by the Department of Health and Mental
39 Hygiene, unless the court finds and affirmatively states on the record that the
40 interests of the person and the people of the State do not require the imposition of this
41 condition.

1 (F) IF AN INDIVIDUAL VIOLATES THE TERMS OF PROBATION, ANY TIME
2 SERVED BY THE INDIVIDUAL IN IMPRISONMENT OR CUSTODIAL CONFINEMENT
3 SHALL BE CREDITED AGAINST ANY SENTENCE OF INCARCERATION IMPOSED BY THE
4 COURT.

5 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
6 read as follows:

7 **Article - Criminal Procedure**

8 6-219.

9 (a) (1) IN THIS SECTION, "CUSTODIAL CONFINEMENT" MEANS:

10 (I) HOME DETENTION;

11 (II) A CORRECTIONS OPTIONS PROGRAM ESTABLISHED UNDER LAW
12 WHICH REQUIRES THE INDIVIDUAL TO PARTICIPATE IN HOME DETENTION,
13 INPATIENT TREATMENT, OR OTHER SIMILAR PROGRAM INVOLVING TERMS AND
14 CONDITIONS THAT CONSTITUTE THE EQUIVALENT OF CONFINEMENT; OR

15 (III) INPATIENT DRUG OR ALCOHOL TREATMENT.

16 (2) "CUSTODIAL CONFINEMENT" DOES NOT INCLUDE IMPRISONMENT.

17 (B) Subject to subsection [(b)] (C) of this section, a court:

18 (1) may suspend a sentence generally or for a definite time;

19 (2) may pass orders and impose terms as to costs, recognizance for
20 appearance, or matters relating to the residence or conduct of the defendant who is
21 convicted as may be deemed proper; [or]

22 (3) if the defendant who is convicted is under 18 years of age, may order
23 confinement in any care or custody as may be deemed proper; OR

24 (4) MAY ORDER A PERSON TO A TERM OF CUSTODIAL CONFINEMENT AS
25 A CONDITION OF A SUSPENDED SENTENCE.

26 [(b)] (C) (1) If the court places on probation a defendant who has been
27 convicted of a violation of § 21-902(a) or (b) of the Transportation Article, the court
28 shall require as a condition that the defendant participate in an alcohol treatment or
29 education program approved by the Department of Health and Mental Hygiene,
30 unless the court finds and states on the record that the interests of the defendant and
31 the public do not require the imposition of this condition.

32 (2) If the court places on probation a defendant who has been convicted
33 of a violation of any provision of Article 27, §§ 276 through 303 of the Code, the court
34 shall require as a condition that the defendant participate in a drug treatment or
35 education program approved by the Department of Health and Mental Hygiene,

1 unless the court finds and states on the record that the interests of the defendant and
2 the public do not require the imposition of this condition.

3 [(c)] (D) (1) In Calvert County, Charles County, and St. Mary's County, the
4 court may impose a sentence of [confinement] IMPRISONMENT as a condition of
5 probation.

6 (2) In Prince George's County, the court on conviction may sentence a
7 defendant to the local correctional facility or place of confinement under the
8 jurisdiction of the sheriff, if:

9 (i) the sentence is to be performed during any 48-hour period in a
10 7-day period, with each period of confinement to be not less than 2 days of the
11 sentence imposed;

12 (ii) the crime leading to the conviction allows confinement in the
13 local correctional facility; and

14 (iii) the total sentence does not exceed 30 two-day periods of
15 confinement.

16 (E) (1) THE LENGTH OF THE TERM OF IMPRISONMENT OR CUSTODIAL
17 CONFINEMENT IMPOSED UNDER THIS SECTION MAY NOT EXCEED THE MAXIMUM
18 LENGTH OF IMPRISONMENT FOR THE CRIME FOR WHICH THE PERSON WAS
19 CONVICTED.

20 (2) THIS SUBSECTION MAY NOT BE CONSTRUED TO LIMIT A COURT'S
21 AUTHORITY TO ORDER IN THE MANNER PROVIDED BY LAW CONDITIONS OF
22 PROBATION OTHER THAN IMPRISONMENT OR CUSTODIAL CONFINEMENT THAT
23 EXCEED THE MAXIMUM LENGTH OF IMPRISONMENT FOR THE CRIME FOR WHICH
24 THE PERSON WAS CONVICTED.

25 (3) IF AN INDIVIDUAL VIOLATES THE TERMS OF PROBATION, ANY TIME
26 SERVED BY THE INDIVIDUAL IN IMPRISONMENT OR CUSTODIAL CONFINEMENT
27 SHALL BE CREDITED AGAINST ANY SENTENCE OF INCARCERATION IMPOSED BY THE
28 COURT.

29 6-220.

30 (a) (1) IN THIS SECTION, "CUSTODIAL CONFINEMENT" MEANS:

31 (I) HOME DETENTION;

32 (II) A CORRECTIONS OPTIONS PROGRAM ESTABLISHED UNDER LAW
33 WHICH REQUIRES THE INDIVIDUAL TO PARTICIPATE IN HOME DETENTION,
34 INPATIENT TREATMENT, OR OTHER SIMILAR PROGRAM INVOLVING TERMS AND
35 CONDITIONS THAT CONSTITUTE THE EQUIVALENT OF CONFINEMENT; OR

36 (III) INPATIENT DRUG OR ALCOHOL TREATMENT.

(2) "CUSTODIAL CONFINEMENT" DOES NOT INCLUDE IMPRISONMENT.

(B) (1) When a defendant pleads guilty or nolo contendere or is found guilty of a crime, a court may stay the entering of judgment, defer further proceedings, and place the defendant on probation subject to reasonable conditions if:

(i) the court is satisfied that the best interests of the defendant and the public welfare would be served; and

(ii) the defendant gives written consent after determination of guilt or acceptance of a nolo contendere plea.

(2) Subject to paragraphs (3) and (4) of this subsection, the conditions may include an order that the defendant:

(i) pay a fine or monetary penalty to the State or make restitution; or

(ii) participate in a rehabilitation program, the parks program, or a voluntary hospital program.

(3) Before the court orders a fine, monetary penalty, or restitution, the defendant is entitled to notice and a hearing to determine the amount of the fine, monetary penalty, or restitution, what payment will be required, and how payment will be made.

(4) Any fine or monetary penalty imposed as a condition of probation shall be within the amount set by law for a violation resulting in conviction.

(5) AS A CONDITION OF PROBATION, THE COURT MAY ORDER A PERSON TO A TERM OF CUSTODIAL CONFINEMENT.

[(b)] (C) (1) When the crime for which the judgment is being stayed is for a violation of § 21-902 of the Transportation Article, the court shall impose a period of probation and, as a condition of the probation:

(i) shall require the defendant to participate in an alcohol treatment or education program approved by the Department of Health and Mental Hygiene, unless the court finds and states on the record that the interests of the defendant and the public do not require the imposition of this condition; and

(ii) may prohibit the defendant from operating a motor vehicle unless the motor vehicle is equipped with an ignition interlock system under § 27-107 of the Transportation Article.

(2) When the crime for which the judgment is being stayed is for a violation of any provision of Article 27, §§ 276 through 303 of the Code, the court shall impose a period of probation and, as a condition of probation, require the defendant to participate in a drug treatment or education program approved by the Department of Health and Mental Hygiene, unless the court finds and states on the record that the

1 interests of the defendant and the public do not require the imposition of this
2 condition.

3 [(c)] (D) Notwithstanding subsections [(a)] (B) and [(b)] (C) of this section, a
4 court may not stay the entering of judgment and place a defendant on probation for:

5 (1) a violation of § 21-902 of the Transportation Article, if within the
6 preceding 5 years the defendant has been convicted under or has been placed on
7 probation under that section after being charged with a violation of § 21-902 of the
8 Transportation Article;

9 (2) a second or subsequent controlled dangerous substance crime under
10 Article 27, §§ 276 through 303 of the Code; or

11 (3) a violation of any of the provisions of Article 27, §§ 462 through 464B
12 of the Code for a crime involving a person under the age of 16 years.

13 [(d)] (E) (1) By consenting to and receiving a stay of entering of the
14 judgment as provided by subsections [(a)] (B) and [(b)] (C) of this section, the
15 defendant waives the right to appeal at any time from the judgment of guilt.

16 (2) Before granting a stay, the court shall notify the defendant of the
17 consequences of consenting to and receiving a stay of entry of judgment under
18 paragraph (1) of this subsection.

19 [(e)] (F) On violation of a condition of probation, the court may enter
20 judgment and proceed as if the defendant had not been placed on probation.

21 [(f)] (G) (1) On fulfillment of the conditions of probation, the court shall
22 discharge the defendant from probation.

23 (2) The discharge is a final disposition of the matter.

24 (3) Discharge of a defendant under this section shall be without
25 judgment of conviction and is not a conviction for the purpose of any disqualification
26 or disability imposed by law because of conviction of a crime.

27 [(g)] (H) In Allegany County, Calvert County, Charles County, Garrett County,
28 Howard County, and St. Mary's County, the court may impose a sentence of
29 confinement as a condition of probation.

30 (I) (1) THE LENGTH OF THE TERM OF IMPRISONMENT OR CUSTODIAL
31 CONFINEMENT IMPOSED UNDER THIS SECTION MAY NOT EXCEED THE MAXIMUM
32 LENGTH OF IMPRISONMENT FOR THE CRIME FOR WHICH THE PERSON WAS
33 CONVICTED.

34 (2) THIS SUBSECTION MAY NOT BE CONSTRUED TO LIMIT A COURT'S
35 AUTHORITY TO ORDER IN THE MANNER PROVIDED BY LAW CONDITIONS OF
36 PROBATION OTHER THAN IMPRISONMENT OR CUSTODIAL CONFINEMENT THAT

1 EXCEED THE MAXIMUM LENGTH OF IMPRISONMENT FOR THE CRIME FOR WHICH
2 THE PERSON WAS CONVICTED.

3 (3) IF AN INDIVIDUAL VIOLATES THE TERMS OF PROBATION, ANY TIME
4 SERVED BY THE INDIVIDUAL IN IMPRISONMENT OR CUSTODIAL CONFINEMENT
5 SHALL BE CREDITED AGAINST ANY SENTENCE OF INCARCERATION IMPOSED BY THE
6 COURT.

7 6-225.

8 (a) (1) IN THIS SECTION, "CUSTODIAL CONFINEMENT" MEANS:

9 (I) HOME DETENTION;

10 (II) A CORRECTIONS OPTIONS PROGRAM ESTABLISHED UNDER LAW
11 WHICH REQUIRES THE INDIVIDUAL TO PARTICIPATE IN HOME DETENTION,
12 INPATIENT TREATMENT, OR OTHER SIMILAR PROGRAM INVOLVING TERMS AND
13 CONDITIONS THAT CONSTITUTE THE EQUIVALENT OF CONFINEMENT; OR

14 (III) INPATIENT DRUG OR ALCOHOL TREATMENT.

15 (2) "CUSTODIAL CONFINEMENT" DOES NOT INCLUDE IMPRISONMENT.

16 (B) (1) (i) Probation may be granted whether the crime is punishable by
17 fine or imprisonment or both.

18 (ii) If the crime is punishable by both fine and imprisonment, the
19 court may impose a fine and place the defendant on probation as to the imprisonment.

20 (iii) Probation may be limited to one or more counts or indictments
21 but, in the absence of express limitation, extends to the entire sentence and judgment.

22 (iv) The court may revoke or modify a condition of probation or may
23 reduce the period of probation.

24 (V) AS A CONDITION OF PROBATION, THE COURT MAY ORDER A
25 DEFENDANT TO A TERM OF CUSTODIAL CONFINEMENT.

26 (2) If a sentence of imprisonment is imposed and a part of it is suspended
27 with the defendant placed on probation, the court may impose as a condition of
28 probation that the probation begin on the day the defendant is released from
29 imprisonment.

30 [(b)] (C) If the court places on probation a defendant who has been convicted
31 of a violation of any provision of Article 27, §§ 276 through 303 of the Code, the court
32 shall require as a condition that the defendant participate in a drug treatment or
33 education program approved by the Department of Health and Mental Hygiene,
34 unless the court finds and states on the record that the interests of the defendant and
35 the public do not require the imposition of this condition.

1 [(c)] (D) In Calvert County, Cecil County, Charles County, Harford County,
2 and St. Mary's County, the court may impose a sentence of confinement as a condition
3 of probation.

4 (E) (1) THE LENGTH OF THE TERM OF IMPRISONMENT OR CUSTODIAL
5 CONFINEMENT IMPOSED UNDER THIS SECTION MAY NOT EXCEED THE MAXIMUM
6 LENGTH OF IMPRISONMENT FOR THE CRIME FOR WHICH THE PERSON WAS
7 CONVICTED.

8 (2) THIS SUBSECTION MAY NOT BE CONSTRUED TO LIMIT A COURT'S
9 AUTHORITY TO ORDER IN THE MANNER PROVIDED BY LAW CONDITIONS OF
10 PROBATION OTHER THAN IMPRISONMENT OR CUSTODIAL CONFINEMENT THAT
11 EXCEED THE MAXIMUM LENGTH OF IMPRISONMENT FOR THE CRIME FOR WHICH
12 THE PERSON WAS CONVICTED.

13 (3) IF AN INDIVIDUAL VIOLATES THE TERMS OF PROBATION, ANY TIME
14 SERVED BY THE INDIVIDUAL IN IMPRISONMENT OR CUSTODIAL CONFINEMENT
15 SHALL BE CREDITED AGAINST ANY SENTENCE OF INCARCERATION IMPOSED BY THE
16 COURT.

17 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act is an
18 emergency measure, is necessary for the immediate preservation of the public health
19 and safety, has been passed by a yea and nay vote supported by three-fifths of all the
20 members elected to each of the two Houses of the General Assembly, and Section 1 of
21 this Act shall take effect from the date it is enacted. It shall remain effective until the
22 taking effect of Section 2 of this Act. If Section 2 of this Act takes effect, Section 1 of
23 this Act shall be abrogated and of no further force and effect.

24 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions
25 of Section 3 of this Act, this Act shall take effect October 1, 2001.